

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.830a Life insurance; actuarial opinion; form; submission to commissioner; liability of actuary; "qualified actuary" defined; limitation; public hearing; effective date of section.

Sec. 830a. (1) Every life insurance company doing business in this state shall annually submit to the commissioner the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The actuarial opinion required by this section shall be submitted in a form prescribed by the commissioner and may include any other items that the commissioner considers necessary.

(2) Every life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by subsection (1) an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts. By order, the commissioner may provide for a transition period for establishing any higher reserves that the qualified actuary may consider necessary in order to render the opinion required by this subsection.

(3) Each opinion required by subsection (2) shall be governed by the following:

(a) A memorandum shall be prepared to support each actuarial opinion that shall be in form and substance acceptable to the commissioner.

(b) If the insurance company fails to provide a supporting memorandum within the period of time requested by the commissioner or the commissioner determines that the supporting memorandum provided by the insurer fails to meet the standards prescribed by applicable laws or rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare a supporting memorandum as is required by the commissioner.

(4) Each opinion required by this section shall be governed by the following:

(a) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1994.

(b) The opinion shall apply to all business in force including individual and group disability insurance plans in form and substance acceptable to the commissioner.

(c) The opinion shall be based on standards as the commissioner may prescribe by rule.

(d) For an opinion required to be submitted by a foreign or alien insurer, the commissioner may accept the opinion filed by that insurer with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) Any memorandum in support of the opinion, and any other material provided by the insurer to the commissioner in connection with it, shall be kept confidential by the commissioner, shall not be made public, and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules promulgated under this section. However, the memorandum or other material may be released by the commissioner in any of the following instances:

(i) With the written consent of the insurer.

(ii) To the american academy of actuaries if the memorandum or other material is required for the purpose of professional disciplinary proceedings and the request sets forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

(iii) If any portion of the confidential memorandum is cited by the insurer in its marketing or is cited before any governmental agency other than a state insurance regulatory agency or is released by the insurer to the news media. In this event, all portions of the confidential memorandum shall no longer be confidential.

(5) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person other than the insurance company and the commissioner for any act, error, omission, decision, or conduct with respect to the actuary's opinion. Disciplinary action by the commissioner against the insurer or the qualified actuary shall be defined in rules by the commissioner.

(6) For purposes of this section, “qualified actuary” means a member of either the american academy of actuaries or the society of actuaries who also meets any other criteria established by the commissioner by rule.

(7) The commissioner shall not accept as a qualified actuary or accept an actuarial opinion prepared in whole or in part by an individual who has done any of the following:

(a) Been convicted of fraud, bribery, a violation of chapter 96 of title 18 of the United States Code, 18 U.S.C. 1961 to 1968, or any dishonest conduct or practices under federal or state law.

(b) Been found to have violated the insurance laws of this state with respect to any previous reports submitted under this section.

(c) Has failed to detect or disclose material information in 1 or more previous reports filed under this section.

(8) The commissioner may hold a public hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, to determine whether an actuary is qualified. After considering the evidence presented, the commissioner may find that the actuary is not qualified for purposes of expressing his or her opinion on reserves and related actuarial items as required by this section, and may require the insurer to replace the actuary with another actuary.

(9) This section shall take effect December 31, 1994.

History: Add. 1994, Act 226, Imd. Eff. June 27, 1994.

Popular name: Act 218